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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/786,164

02/26/2004

Andrew Jay Bean

3638-115 (AMK)

9134

23117

7590

07/17/2008

NIXON & VANDERHYE, PC  
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EXAMINER

CHIN SHUE, ALVIN C

ART UNIT

PAPER NUMBER

3634

MAIL DATE

DELIVERY MODE

07/17/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/786,164	<b>Applicant(s)</b> BEAN ET AL.	
	<b>Examiner</b> Alvin C. Chin-Shue	<b>Art Unit</b> 3634	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 May 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

In view of the Appeal Brief filed on 5/31/08, PROSECUTION IS HEREBY REOPENED. The new rejection is as set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/KATHERINE W MITCHELL/

Supervisory Patent Examiner, Art Unit 3634.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bach et al in view of Bodtke. Bach teaches the claimed method but although showing at 2 and 3 lifts having a plurality of booms is silent on same, thus the claimed difference being a work equipment having a pivotally attached main boom. Bodtke teaches a work equipment connected to a tower boom by a pivotally attached main boom (201, 601), Bodtke at 662, 661 teaches the use of sensing means position at a tower boom and between the tower and main boom, respectively, as set forth in claims 18 and 21. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bach to comprise a work equipment with a main boom and sensing means located, as taught by Bodtke, to enable enhance positioning of a work equipment and sense the positioning of the booms, respectively. To teach his path control arrangement for the nose of his boom to follow a predetermined path, as set forth in claims 3-5, 8, 12-14 and 16 would have been an obvious mechanical expediency in view of the capability and function of his control arrangement with memory means. The examiner TAKES OFFICIAL NOTICE that the use of inclinometers and rotation sensors on booms to sense the position of the booms is a conventional practice. It would have been obvious to one of ordinary skill in the art at the time the invention

was made to provide an inclinometer and a rotation sensor in place of the sensors, as taught by Bodtke, by the substituted use of one known equivalent element for another.

Claims 1-17 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bach et al in view of Ashworth. Bach teaches the claimed method including a switch 28, but although showing at 2 and 3 lifts having a plurality of booms is silent on same, thus the claimed difference being a work equipment having a pivotally attached main boom. Ashworth teaches a work equipment connected to a tower boom by a pivotally attached main boom at 19. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bach to comprise a work equipment with a main boom, as taught by Ashworth, to enable enhance positioning of a work equipment. To teach his path control arrangement for the nose of his boom to follow a predetermined path, as set forth in claims 3-5, 8, 12-14 and 16 would have been an obvious mechanical expediency in view of the capability and function of his control arrangement with memory means.

Claims 2,9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bach et al and either Bodtke or Ashworth, as applied to claims 1,6 and 10 as applied above, and further in view of Fulton, as applied to claim 17 teaches a “Go

To" switch 36. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the system of Bach with a "Go To" switch, as taught by Fulton, to activate the predetermined path of his boom.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin C. Chin-Shue whose telephone number is 571-272-6828. The examiner can normally be reached on Monday-Friday, 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Alvin C. Chin-Shue  
Primary Examiner  
Art Unit 3634

/Alvin C. Chin-Shue/  
Primary Examiner, Art Unit 3634